

**Subject:** Wall Status

**Date:** Wednesday, March 6, 2013 11:43:01 AM PT

**From:** Tammy Borichevsky

**To:** bradm@bcdcc.ca.gov

**CC:** 'Julie Braun', 'Margie Turrel', 'Ellen Miramontes'

Hello,

Ellen thank you letting me know BCDC staff will be coming out to do a site visit. I think that is great that someone from BCDC will be actually doing an on-site visit. I don't feel the visit is relevant to the fact the walls on public space remain up when the current BCDC Special use permit is clear that the space should be open when an event is not taking place. I am referencing the permit violation language and use below. I will again state that there has been a blatant disregard for the BCDC permit requirements concerning the Public Pavilion at Jack London Square by ownership of Scott's Seafood Restaurant.

Unfortunately, Yesterday the back wall construction was completed. All the construction work was accelerated when I brought it to the attention of the city of Oakland building permits office. The City should have issued a stop work order since there was no building or electrical permits on site. I'm not sure why a stop work order wasn't issued. I did contact the city but haven't received an answer yet. I was told that they were looking into the matter.

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Again, the issue of the walls being up is not relevant to the fact that three structures were built without a proper BCDC permit or permission. The walls being up and not pushed back is in clear violation of the current BCDC permit. If the walls remain civil penalties can and should be levied each day the walls remain up and public access is denied.

In addition, proper public access signage should be placed in the area along with tables and chairs as required by the current BCDC Permit. If the BCDC will not be enforcing the current BCDC permit I need to know what course of action I can take to find out why the permit is not being enforced. At this point in time I have contacted the Port staff, BCDC Staff and Cushman & Wakefield concerning the walls but they remain up. I have photos of the walls up and dated if you require visual proof.

Thank you for your attention to the matter,

Tammy

Tammy Borichevsky  
California Canoe & Kayak  
Purepaddlesports since 1972  
409 Water Street  
Oakland, CA 94607

**Public Pavilion Use.** Scott's Restaurant shall be allowed to use the approximately 4,400-square-foot public pavilion located in the 23,000-squarefoot, dedicated public access plaza lying between Scott's and Kincaid's Restaurants in Jack London Square for private events only as specified herein. Scott's Restaurant shall submit to and obtain approval by the Port of Oakland of a schedule of private events. Operation of the fabric panels enclosing the private events beneath the pavilion shall be consistent with the guidelines specified in Exhibit A to this amended permit. The public plaza site furnishings shall be restored immediately following each approved event, or if an approved event terminates after 10:00 PM, the site furniture shall be replaced by **9:00 AM of the following day.**

d. At least 15 tables and 35 chairs which are designed to match the existing cafe seating at the Barnes and Noble bookstore, to be in placed at all times, except when the pavilion is needed for approved private events or other approved public events;

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**Violation.** The holding of a banquet or other private event within the pavilion or public access plaza not listed in the schedule of events, or the approval of a schedule of events that is inconsistent with the guidelines set forth in Exhibit A to this corrected amended permit shall be considered an activity undertaken without Commission authorization and subject to the schedule of standardized civil penalties described in Commission Regulation Sections 11302(2) and 11386(a)(3).

#### **B. Public Access**

1. **Area.** The approximately 4,400-square-foot area in the shoreline band as generally shown on Exhibit B shall be made available to the public **for unrestricted public access for walking, sitting, viewing, picnicking, and related purposes as more specifically described in paragraphs II-B-2. If the permittees wish to use the public access area for other than those purposes expressly delineated in paragraph II-B-2, the permittees must obtain prior written approval by or on behalf of the Commission.**

**Subject:** Re: Port of Oakland/Jack London adjacent to Scott's Seafood: Temporary structure in place for past two months.\

**Date:** Monday, February 25, 2013 6:36:39 PM Pacific Standard Time

**From:** Brad McCrea

**To:** Ellen Miramontes, Adrienne Klein

**CC:** Jaime Michaels, Bob Batha

**Category:** Global Address List

Ellen, thanks for the update.

Adrienne, let's get to the bottom of this this week. I can do a site visit and research if needed. If there are violations, we should communicate the violations to the permittees immediately and state, in no uncertain terms, that they are in a heap of trouble.

Brad

Brad McCrea  
Director of Regulatory Affairs  
San Francisco Bay Conservation and Development Commission (BCDC)  
415-352-3615 office  
415-385-2954 mobile

On Feb 25, 2013, at 5:39 PM, "Ellen Miramontes" <[ellenm@bcdc.ca.gov](mailto:ellenm@bcdc.ca.gov)> wrote:

All,

I called and spoke with Tammy at CA Kayaking today. She relayed that the construction of the wall panels has been going on for more than 2 months. They have installed another temporary tent structure in front of the pavilion (southern side) and have been using this area also to stage their construction. From what I gather, the pavilion and this additional tent area have been used as a shop area to carry out the construction of the panels. She will send a photo by email.

I also called Steve Hanson to find out what he knows about this. He understands that the public access area should not be used as a construction zone and will relay this to Steve Fagalde whom he will be meeting with tomorrow. I asked that he provide photos and also a timeline for when the construction of the panels will be complete. I also asked about their amendment request which he said should be forthcoming very soon. The amendment request will include the following:

- will clarify language in permit relating to allowances for special events
- will request authorization for a door structure to the pavilion (which we may or may not be able to approve; we have repeatedly relayed that there should be no permanent structures in place that would block views or physical access to the Bay)
- will request retroactive authorization for a storage unit which they constructed without our authorization and the Port's

- Ellen

---

**From:** Jaime Michaels <[jaimem@bcdc.ca.gov](mailto:jaimem@bcdc.ca.gov)>  
**Date:** Monday, February 25, 2013 1:06 PM  
**To:** Ellen Miramontes <[ellenm@bcdc.ca.gov](mailto:ellenm@bcdc.ca.gov)>, Adrienne Klein <[adriennek@bcdc.ca.gov](mailto:adriennek@bcdc.ca.gov)>, Ande Bennett <[andeb@bcdc.ca.gov](mailto:andeb@bcdc.ca.gov)>

**Cc:** Bob Batha <bobb@bcd.ca.gov>

**Subject:** Port of Oakland/Jack London adjacent to Scott's Seafood: Temporary structure in place for past two months.\

Got a call from Tammy (510-893-7833) from CA Kayaking/Scott's neighbor	
--	--

Do we know of a temporary structure next to Scott's that's been in place for past two months? If not/if so, she'd like us to call her and let her know what is going on with the structures. I can call her back but thought you all may be familiar enough to provide me with an update.

Thanks - Jaime



**Subject:** Re: Port of Oakland/Jack London adjacent to Scott's Seafood: Temporary structure in place for past two months.\

**Date:** Monday, February 25, 2013 5:39:03 PM PT

**From:** Ellen Miramontes

**To:** Jaime Michaels, Adrienne Klein, Bob Batha, Brad McCrea

**BCC:** Ande Bennett

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**To:** Ellen Miramontes <ellenm@bcdcc.ca.gov>, Adrienne Klein <adriennek@bcdcc.ca.gov>, Ande Bennett <andeb@bcdcc.ca.gov>

**Cc:** Bob Batha <bobb@bcdcc.ca.gov>

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Thanks - Jaime



**Subject:** Public Pavilion

**Date:** Sunday, March 3, 2013 5:51:05 PM PT

**From:** Tammy Borichevsky

**To:** 'Ellen Miramontes'

**CC:** 'Julie Braun', 'Margie Turrel'

Ellen,

I'm sorry we were really busy at the shop and I didn't get your message until it was too late. I will call on Monday. I still don't understand why they have been able to build this and have the walls up all this time and what will it take to stop have them abide by the terms of the permit. This space is suppose to be available for others to use and as I stated in an earlier email that is really not true. Scott's has high jacked public land with no consequences for their actions. This has been going on problem since the permit was first issued. I really don't understand in any stretch of the imagination how this can be happening without any oversight.

- There is no public safety issue the walls should be pushed back today so that we can see exactly what will be in place.
- Today is the farmers market and is a perfect example of public access and views of the bay lost because the walls are up on an empty space.
- There has been a front entry built out of steel that did not exist prior Dec 28, 2012. They had to put in footers so this was major construction. Was this approved by BCDC?
- It was built at night and I'm assuming without a building permit or inspection of any kind. It is brand new construction and currently covered by the old tent walls.
- I'm not sure what you and Julie have been told but as far as I can tell the last letter you wrote was very clear and is being ignored.
- What will the BCDC do regarding the non-compliance of the permit. There is no valid reason or safety issue they should be required to push the walls back **now** when not in use.
- The reason the walls are up to hide the work from the public. This is how they have done it every time they do construction. We have witnessed it for years. We are next door it is hard to miss major construction.
- Basically the permit requirements are being ignored and these are blatant acts of non-compliance.
- What is the property management's responsibility about enforcing permit compliance on this common area/public land?
- What will the Port of Oakland do and what is their responsibility?
- Why does the BCDC have a permit process if it is not being enforced.
- Does the public have any say in the matter?
- This not only impacts the public access but also other businesses at Jack London Square. Just sit on the patio of either Forge or Boca Nova and you can see how the walls block the view.
- I'm not sure what design requirements are for the waterfront but it looks like a School Gym.

Attached see a steel entryway that was built over the last two months and the stage/storage area that was built to my knowledge without approval from BCDC or the Port of Oakland.

Sunday I took photos of an empty space with the walls still up. Not sure how it could be considered a safety issue there was nothing in the space.

Cc'd Sandra Threlfall of Waterfront Action concerning this matter.

Thank you for your thoughtful consideration of this matter,













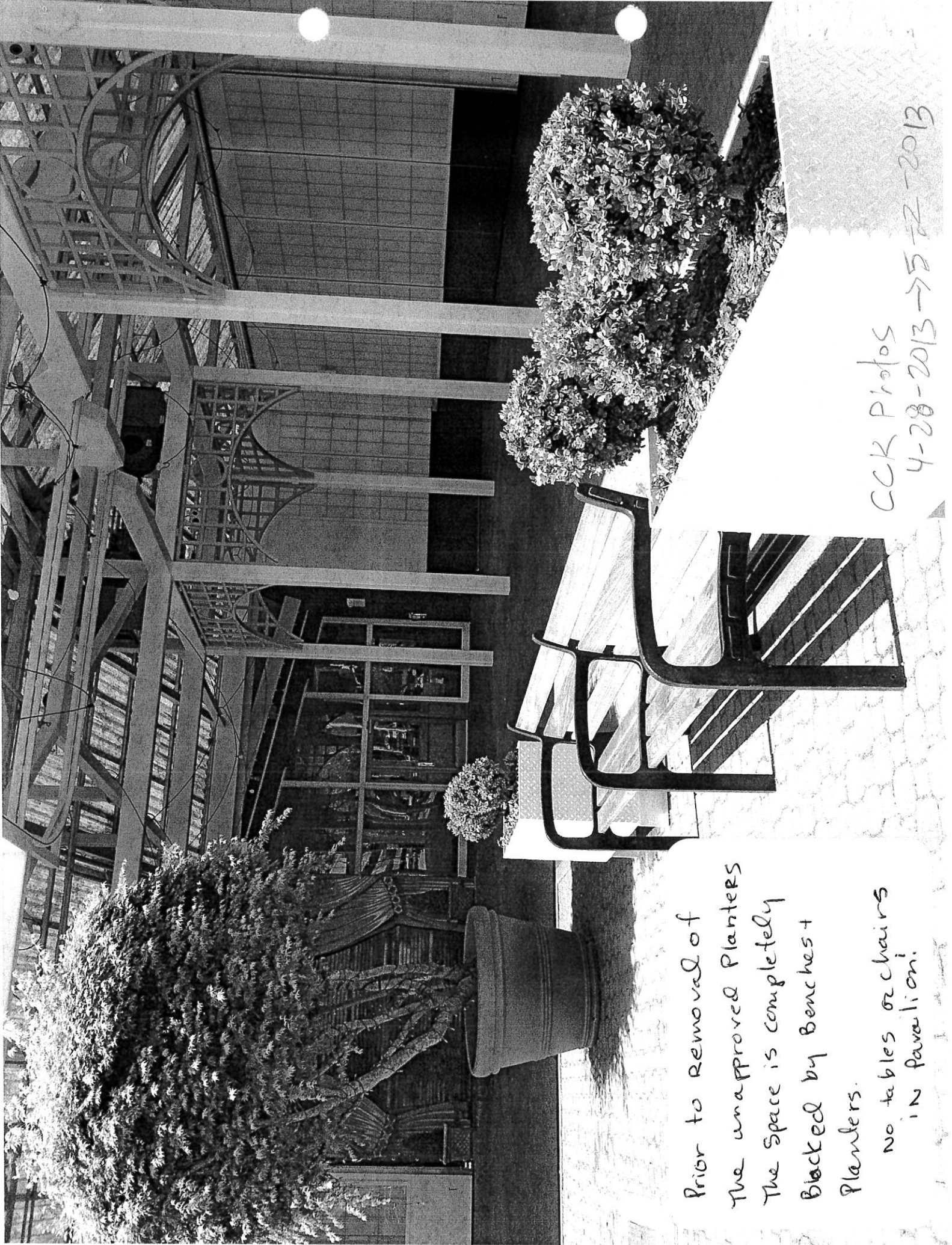












Prior to Removal of  
The unapproved Planters  
The Space is completely  
Blocked by Benches +  
Planters.

No tables or chairs  
in Pavilion!

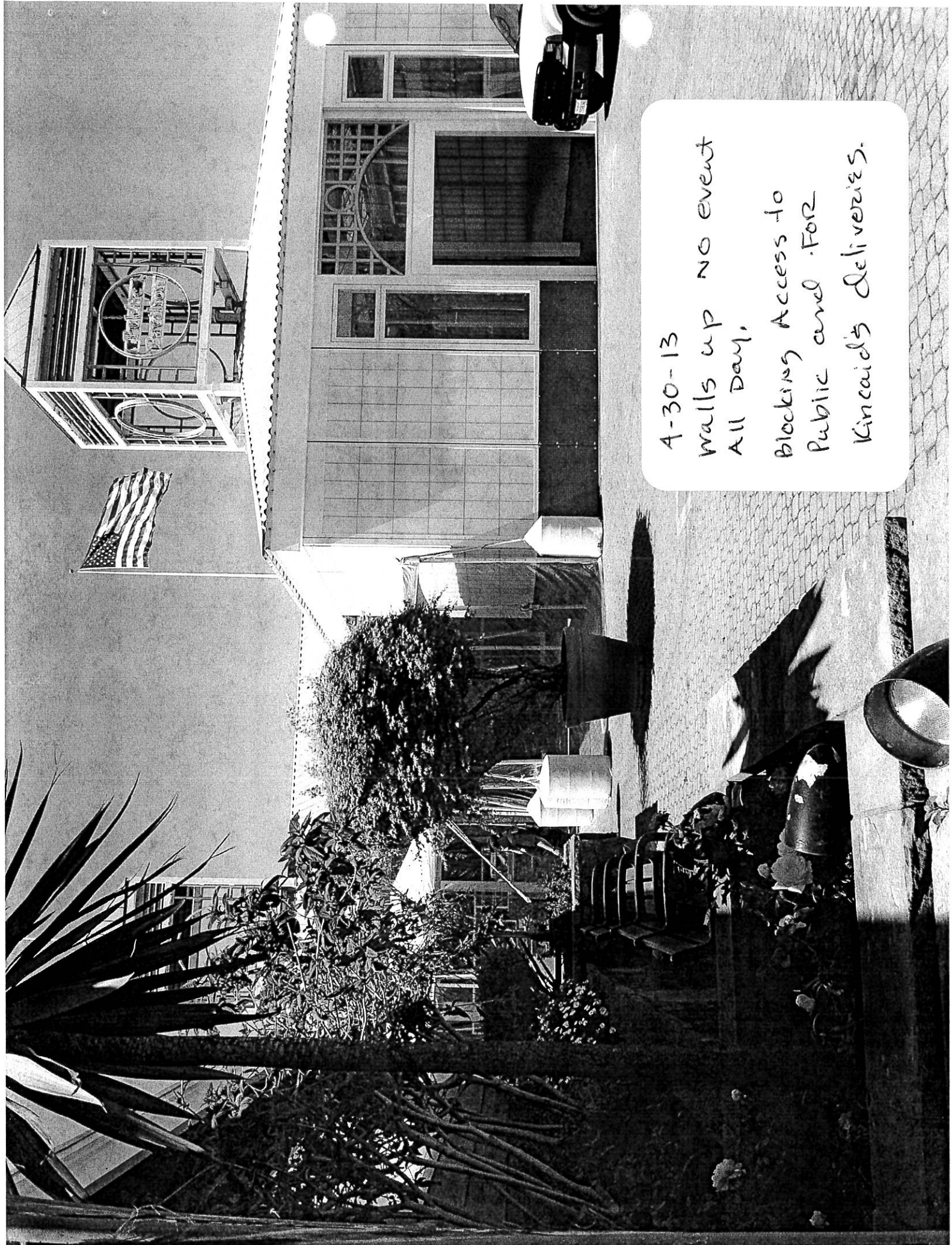
CCK Photos

4-28-2013 → 5-2-2013

Farmers market  
Sunday - April 28th  
No Tables - No chairs





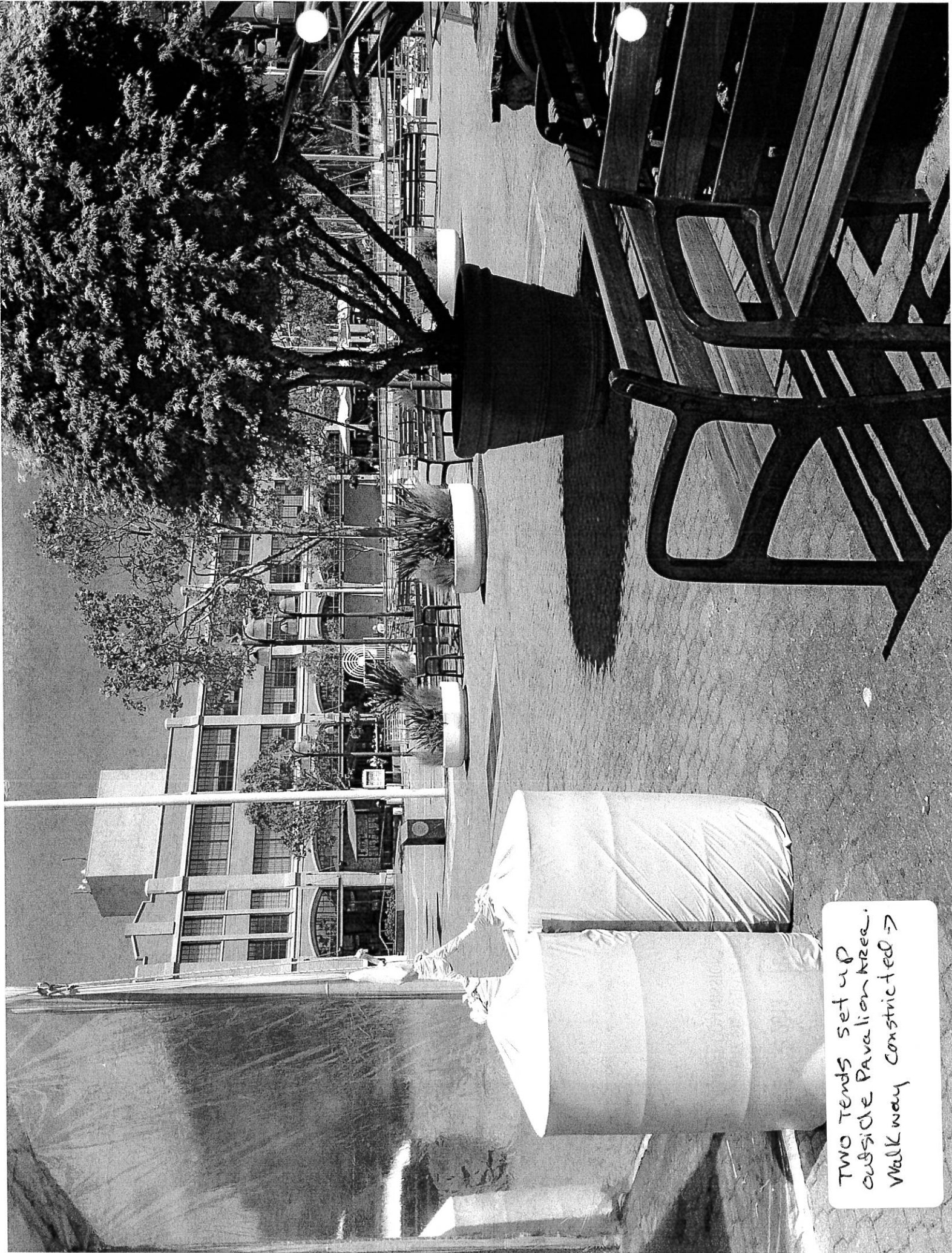


4-30-13

walks up no event  
All Day,

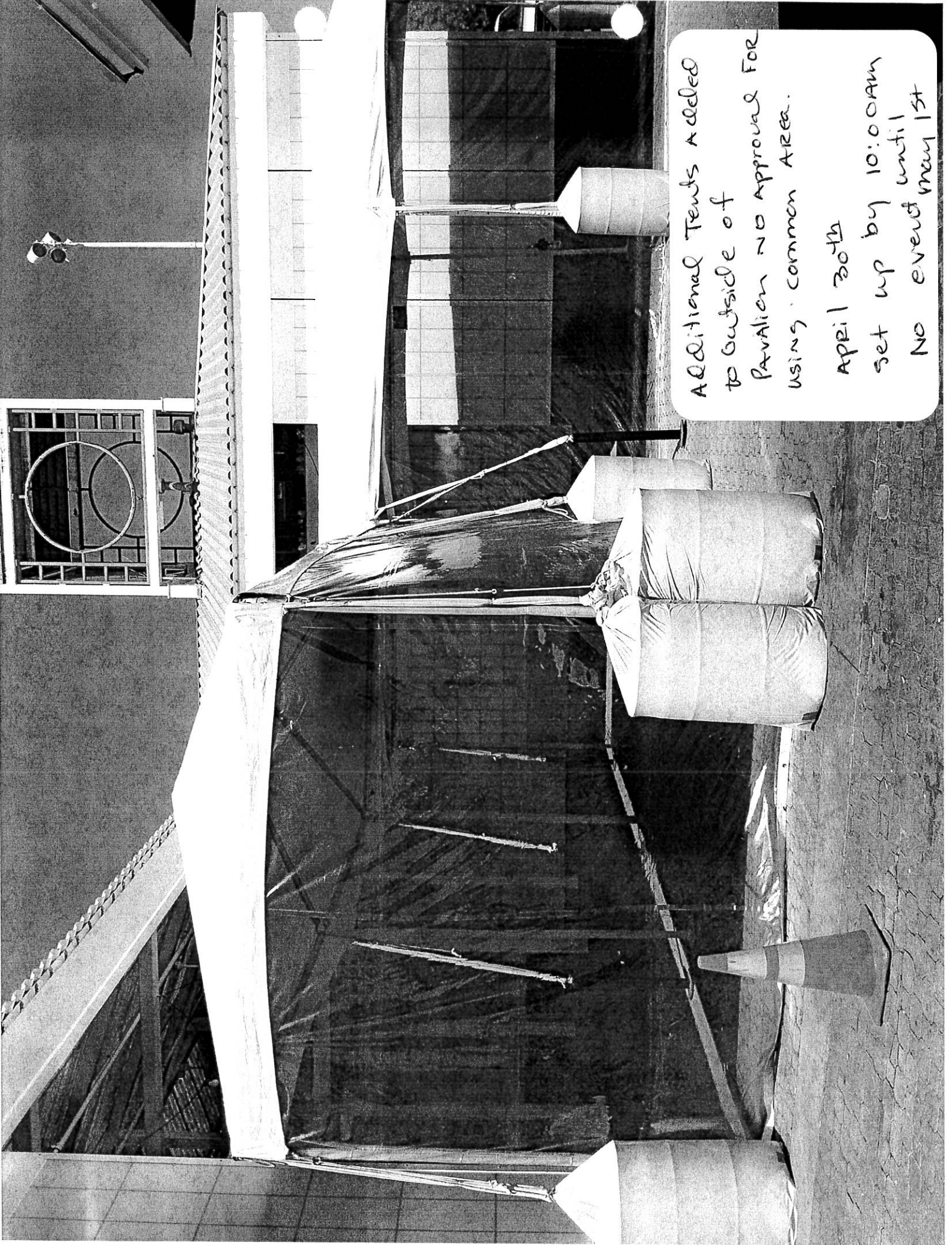
Blocking Access to  
Public and For  
Kincaid's Deliveries.





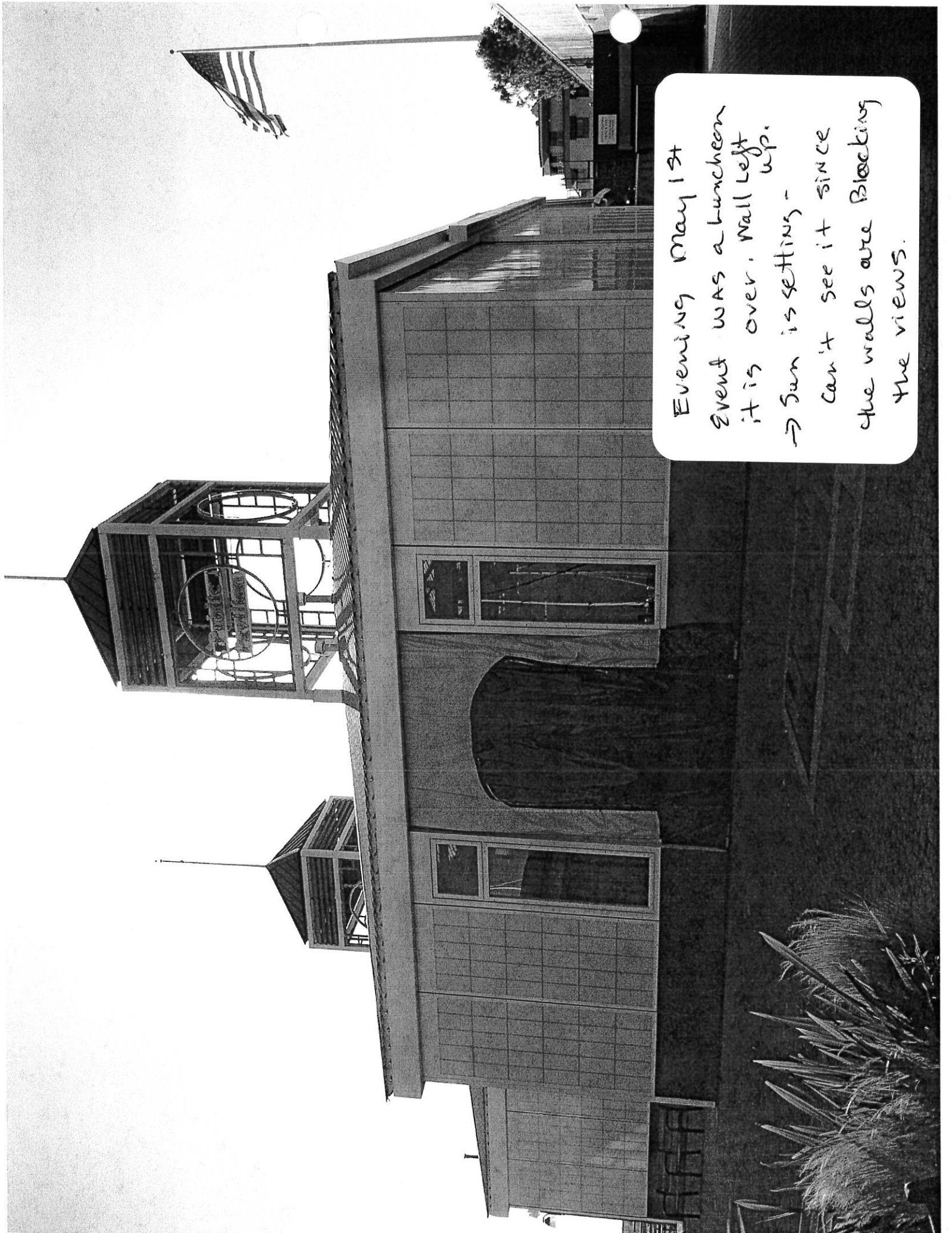
TWO TENTS set up  
outside Pavilion area.  
Walkway constricted ->

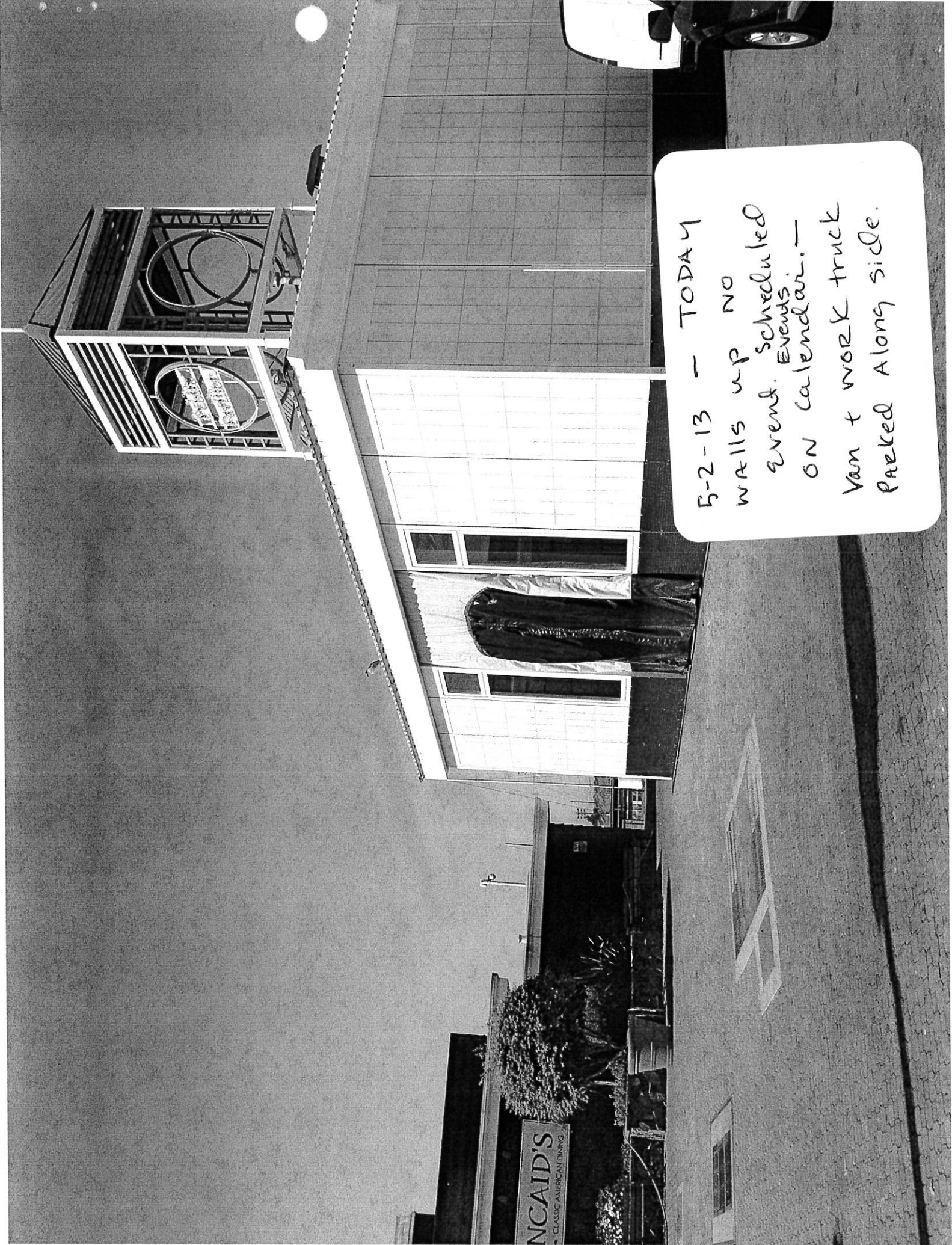
Additional Tents Added  
to Outside of  
Pavilion NO Approval For  
using common Area.  
April 30th  
set up by 10:00am  
No event until  
May 1st





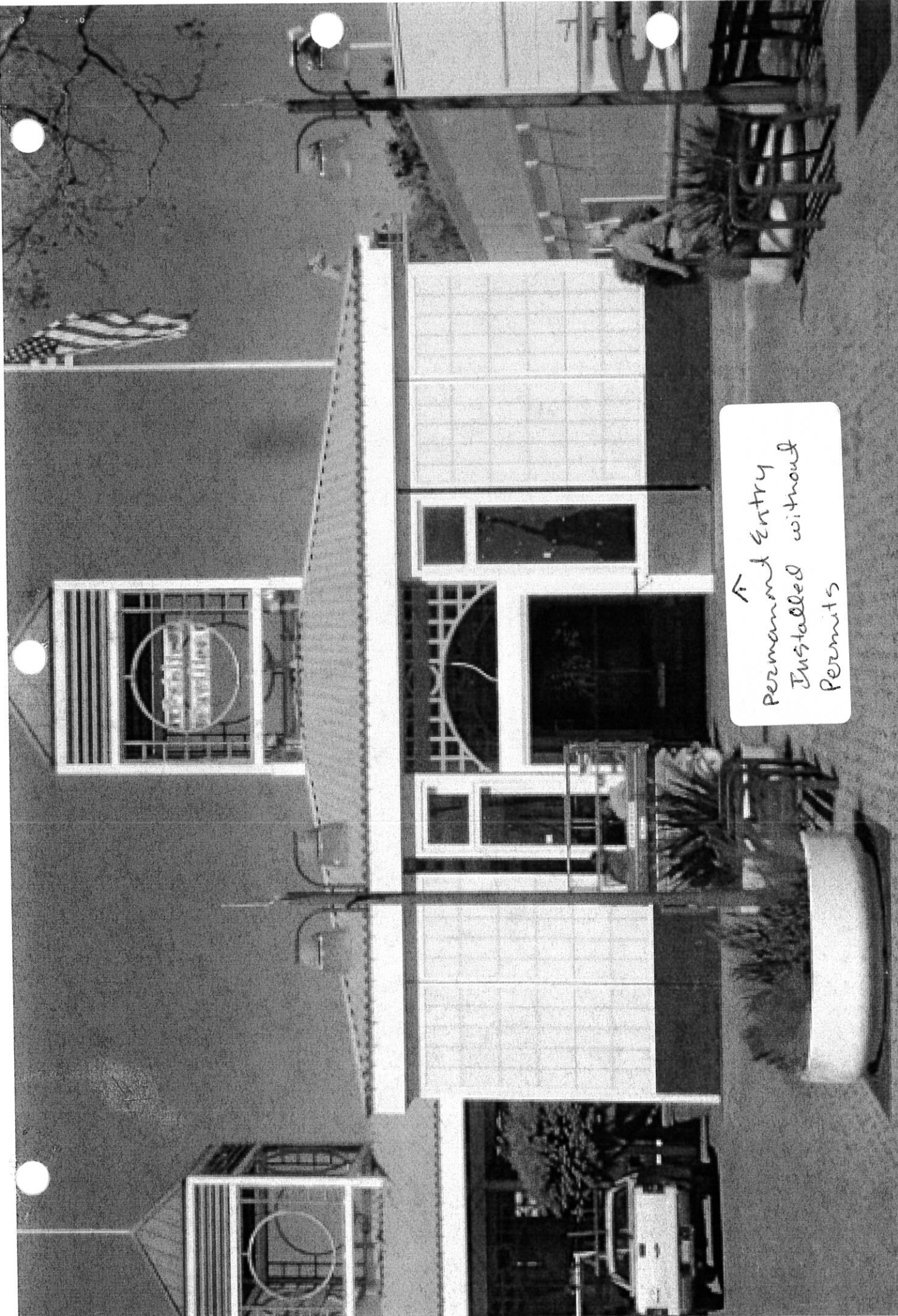
Evening May 1st  
Event was a luncheon  
it is over. Wall left  
up.  
→ Sun is setting -  
can't see it since  
the walls are blocking  
the views.





5-2-13 - TODAY  
walls up NO  
event. Scheduled  
Events. —  
ON calendar. —  
Van + work truck  
Parked Along side.





↑  
Permanent Entry  
Installed without  
Permits

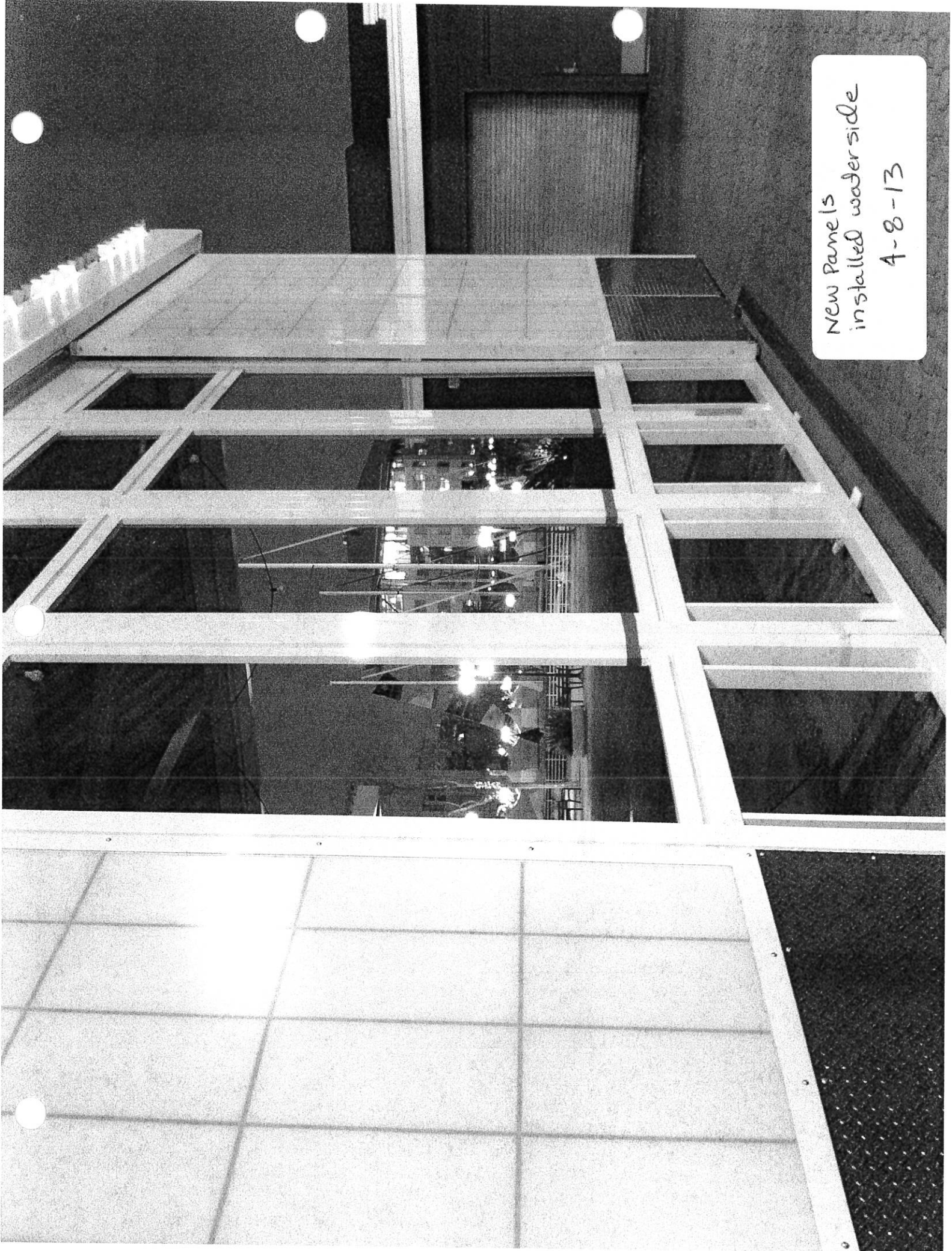
From  
Kathy Miller



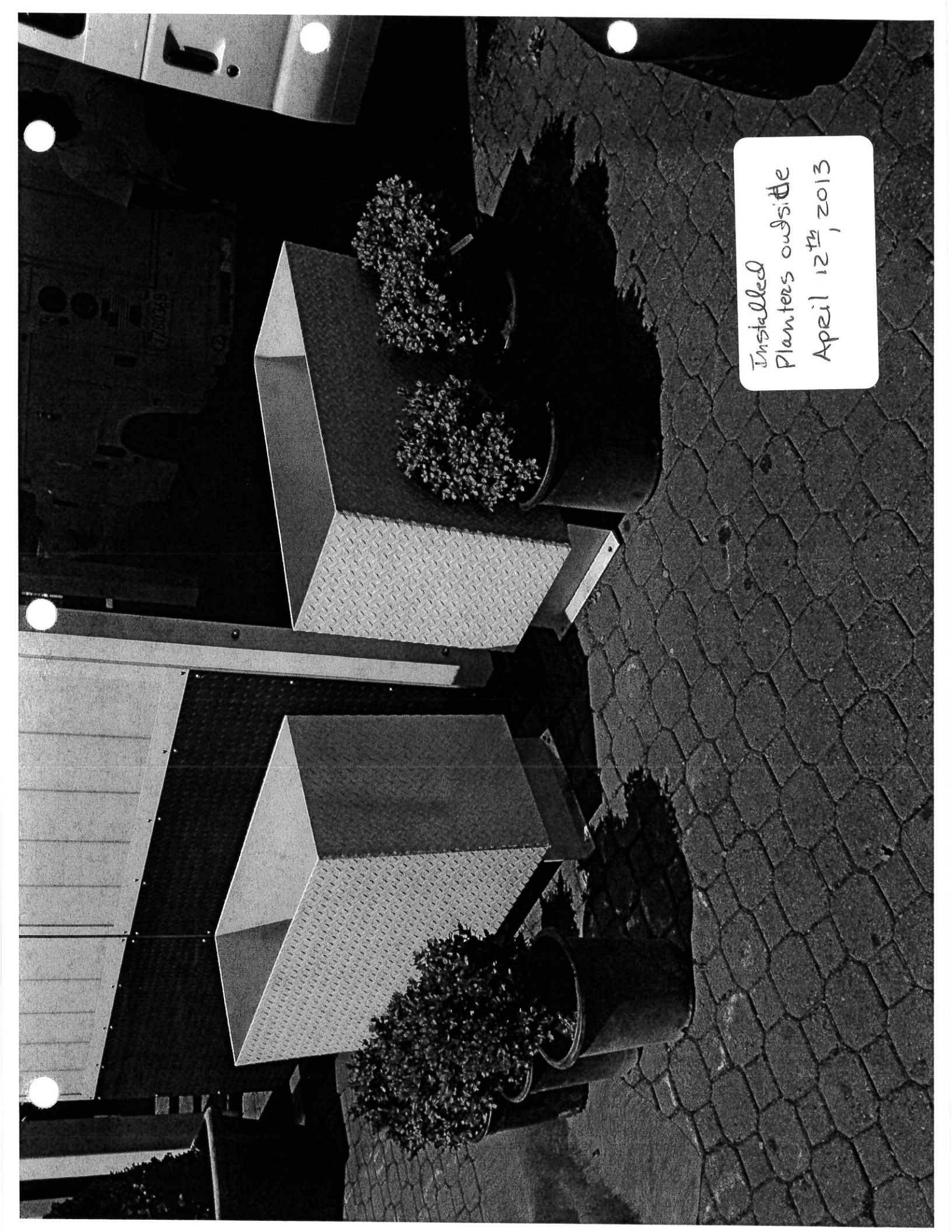
Panels installed  
on front  
4-11-13



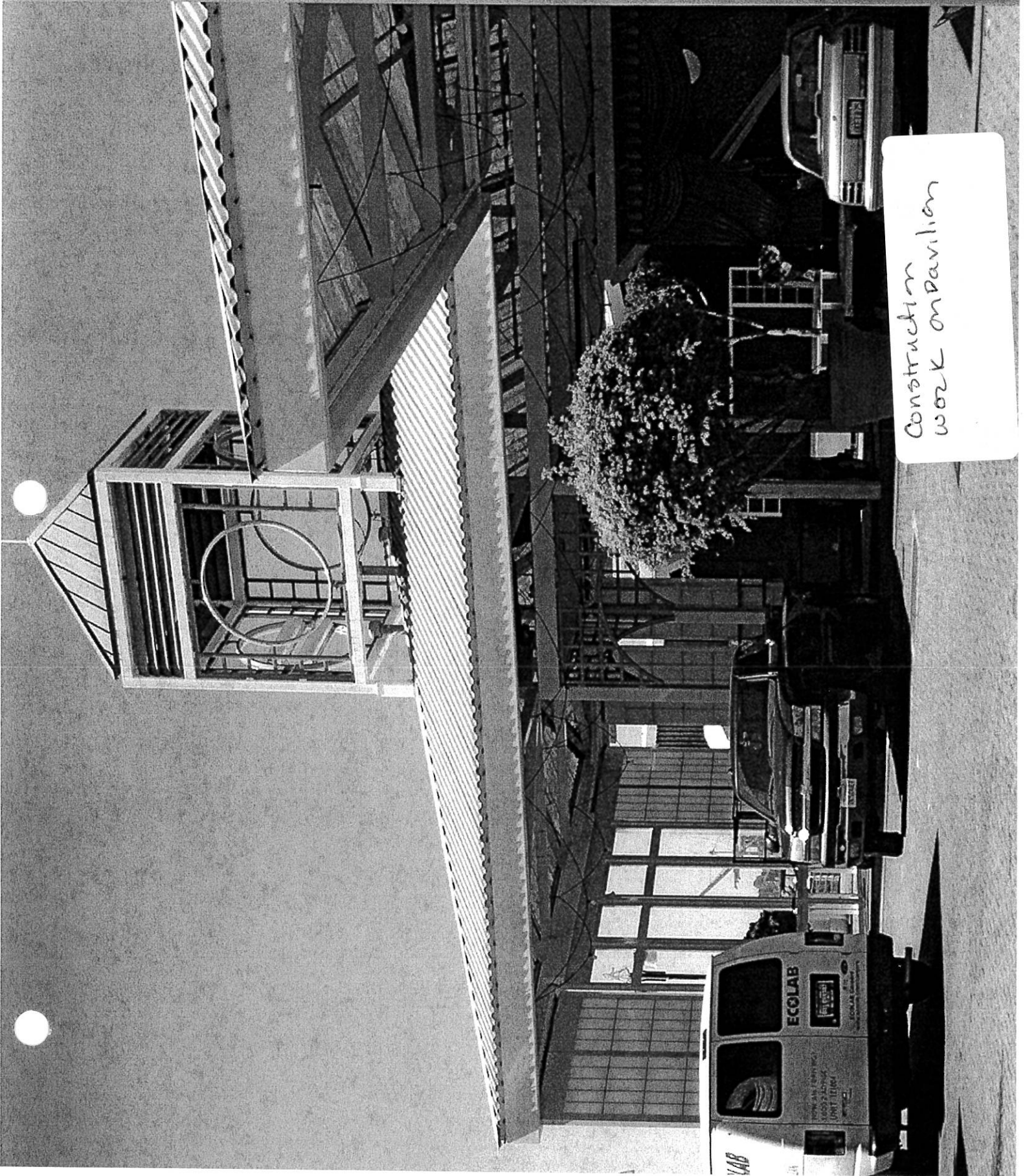
New Panels  
installed waterside  
4-8-13





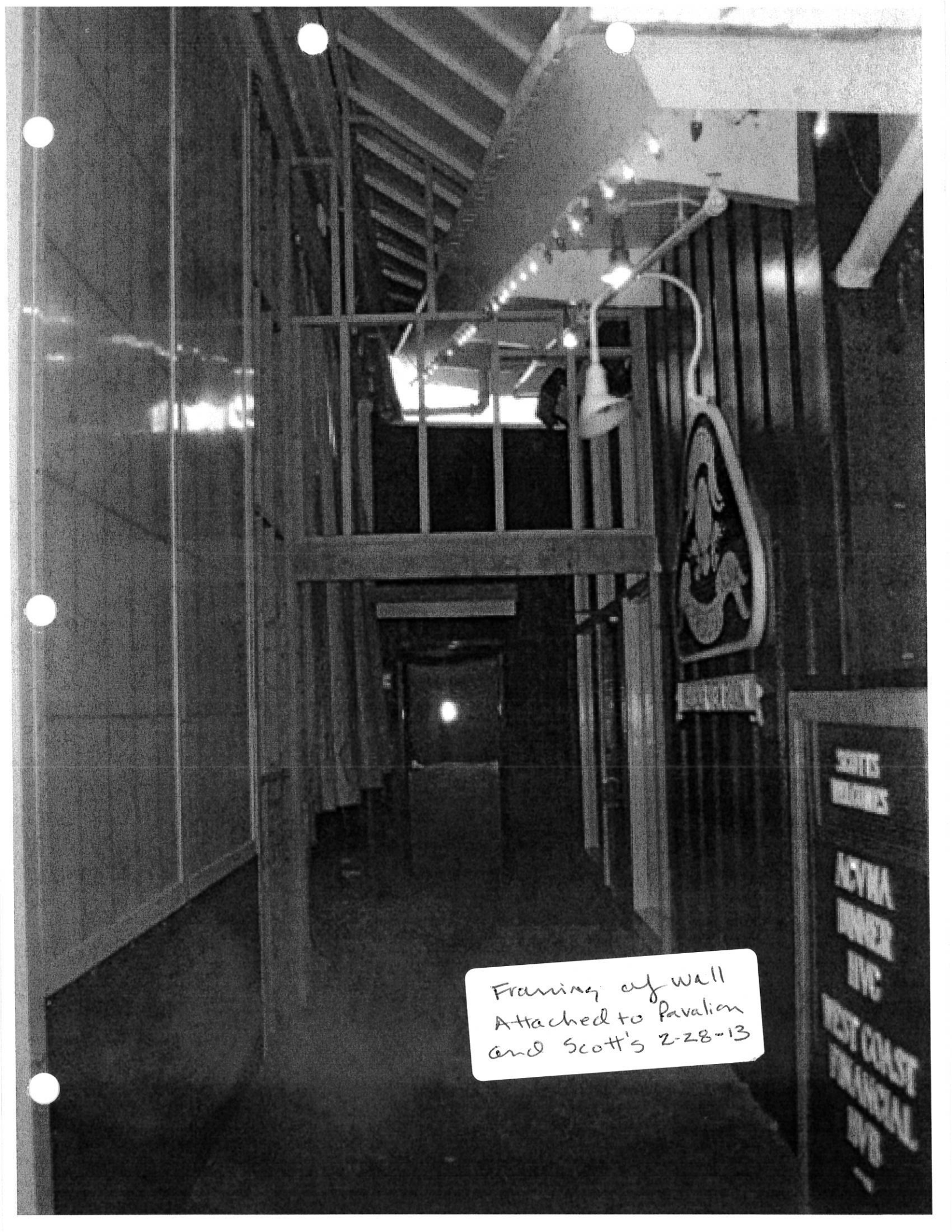
A black and white photograph showing two modern, angular planters installed outside a building. The planters are made of a material with a diamond-plate texture and have a flat, triangular top. Each planter contains a dense, rounded shrub. They are placed on a paved area with interlocking stones. In the background, a building with large windows and a door is visible. A white label with handwritten text is in the bottom right corner.

Installed  
Planters outside  
April 12<sup>th</sup>, 2013



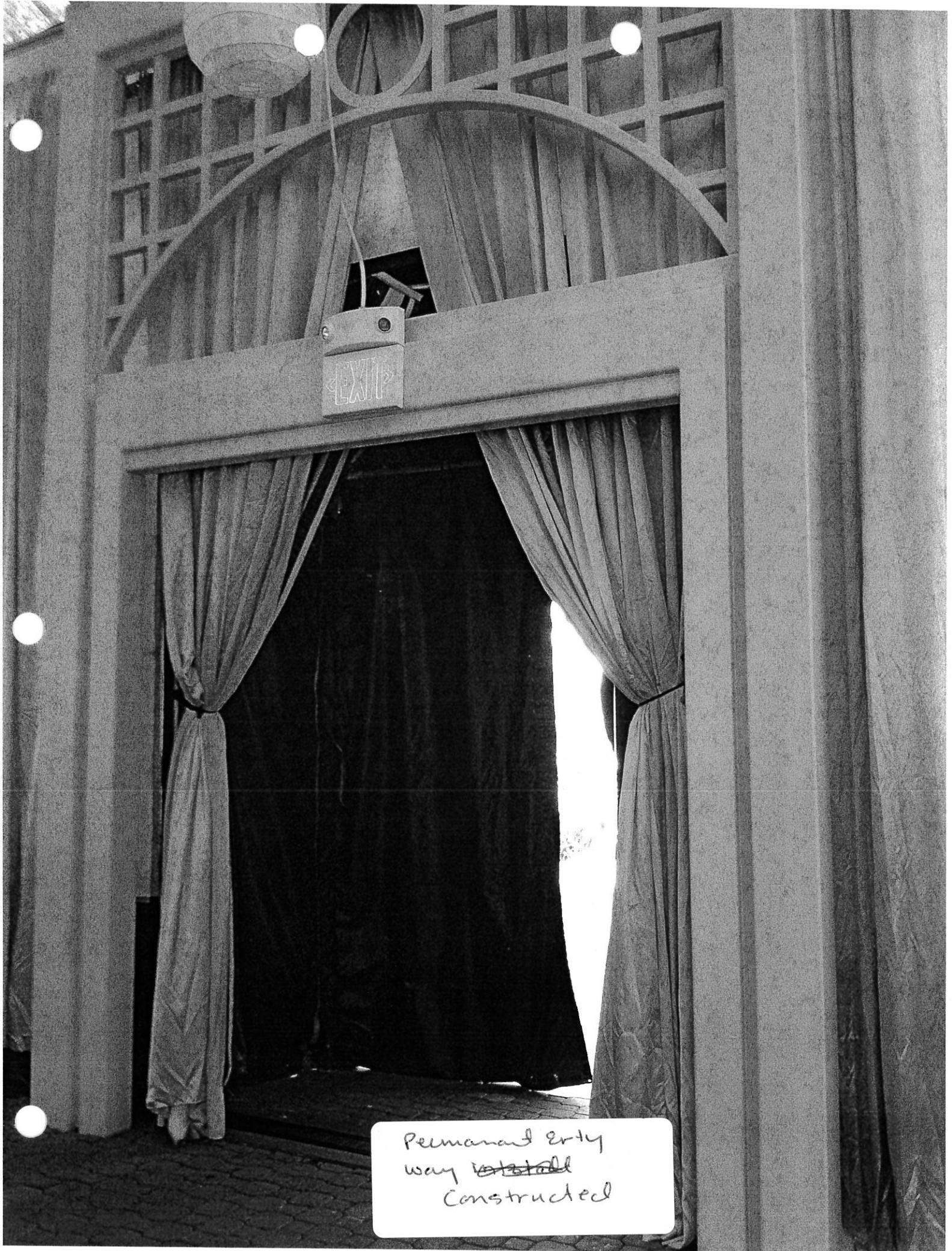
Construction  
work on Pavilion





Framing of wall  
Attached to Pavilion  
and Scott's 2-28-13

SCOTT'S  
BUILDINGS  
ACTIVA  
POWER  
DVC  
WEST COAST  
FINANCIAL  
DVC

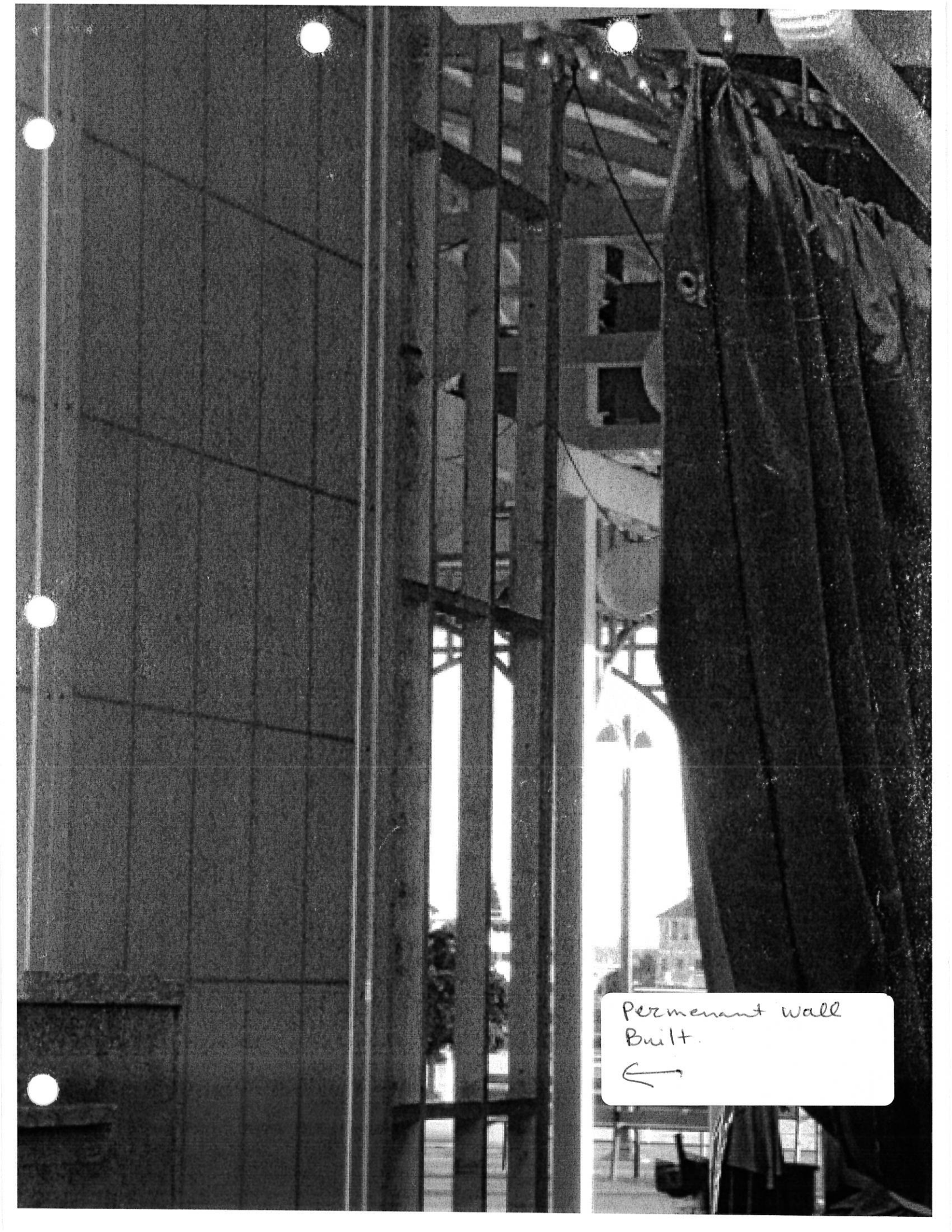


Permanent entry  
way ~~is still~~  
constructed



Storage Area and  
Stage Built without  
Approval prior to photo  
march 6<sup>th</sup>  
2013



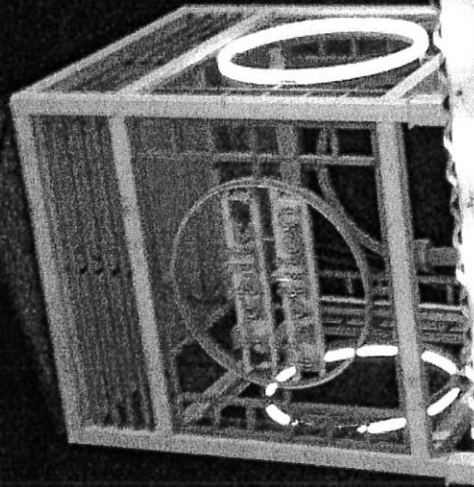


Permanent Wall  
Built.

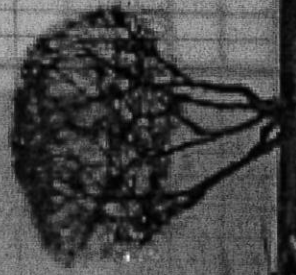
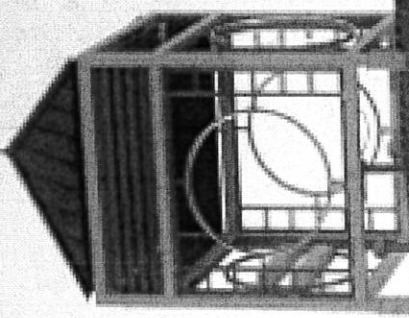




Night Time  
Public Pavilion  
Light Not on.



walls up no  
event.  
Blocking Public  
Views + Access

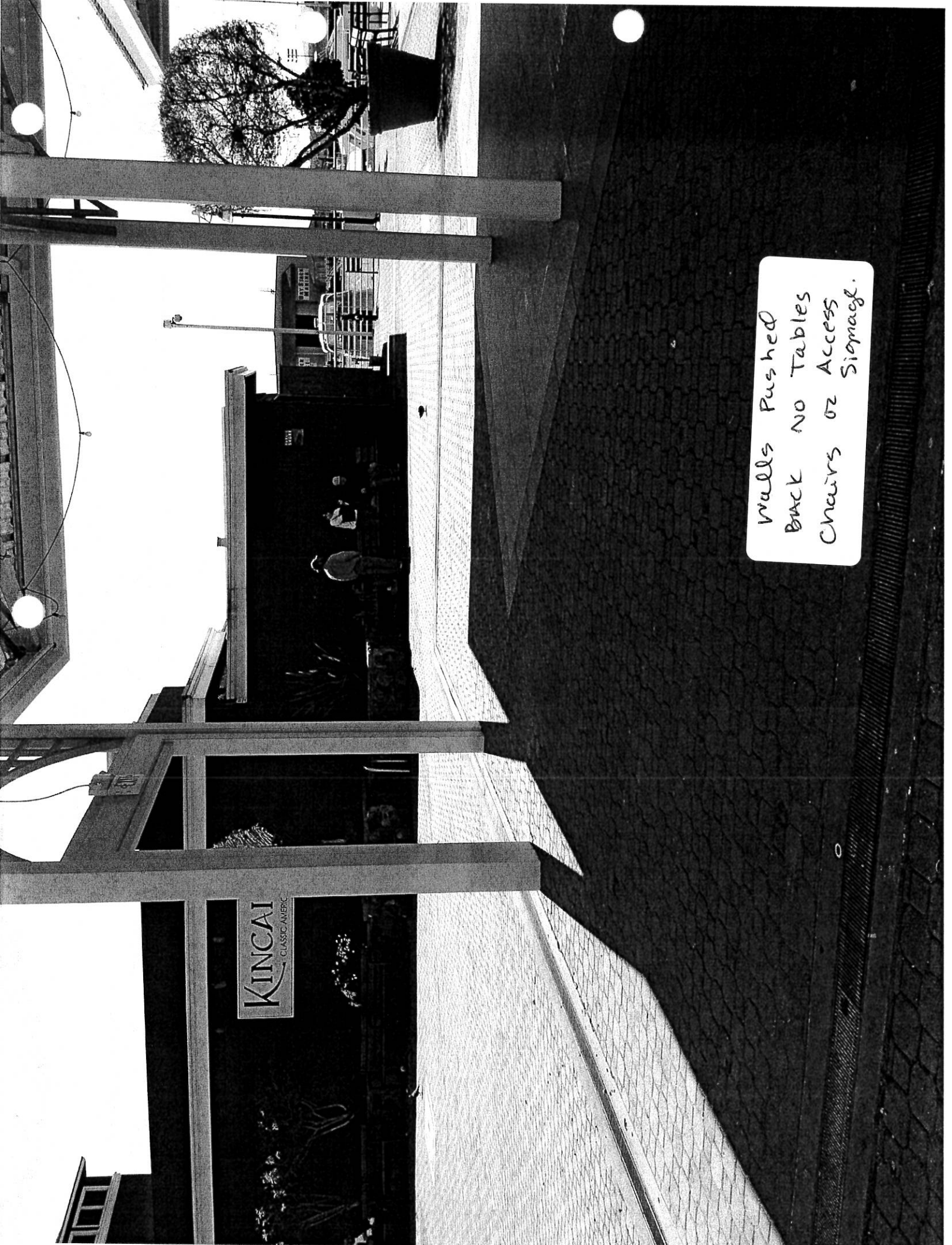




Construction  
NO Public Access  
over 60 DAYS

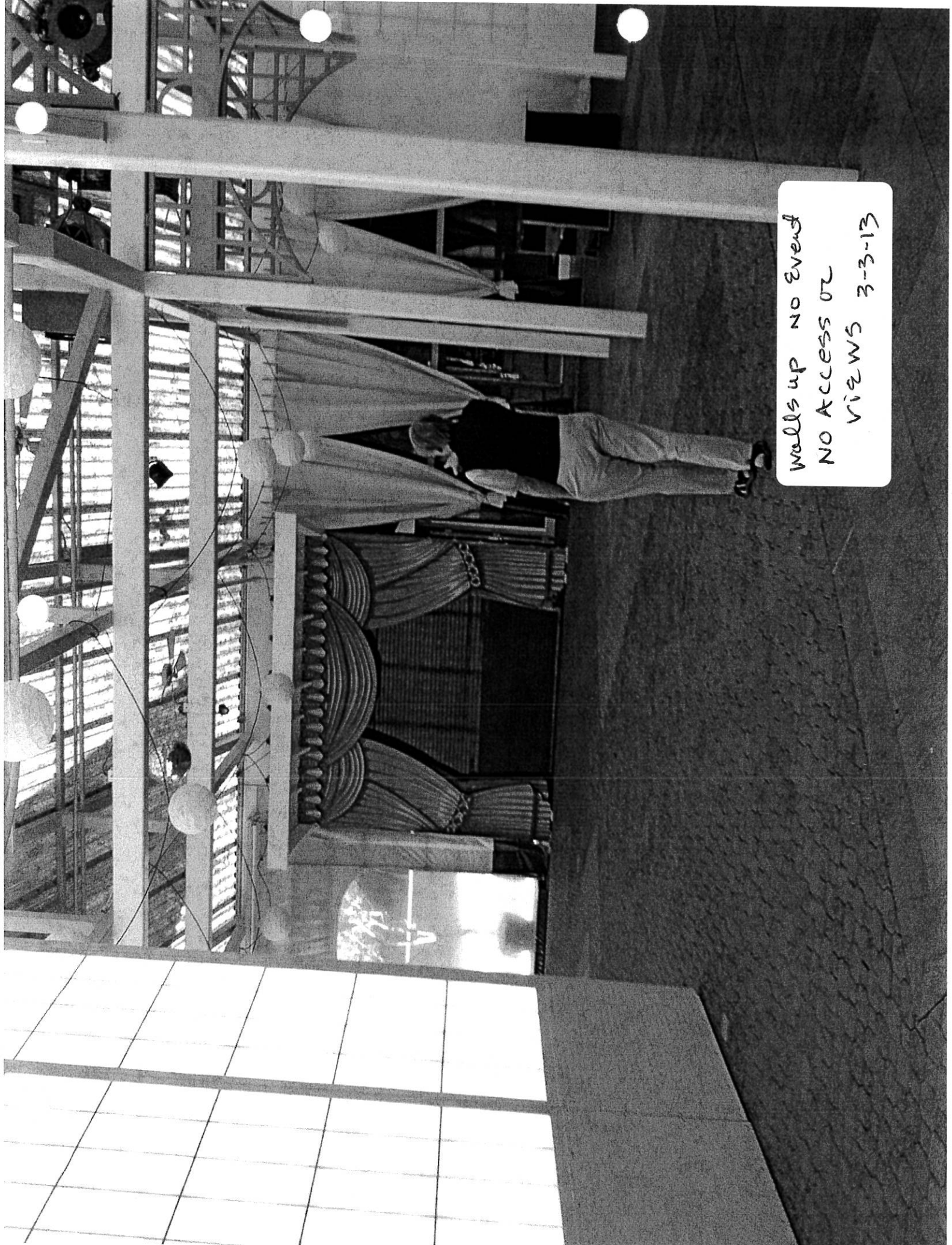


Walls Pushed  
Back No Tables  
Chairs or Access  
Signage.





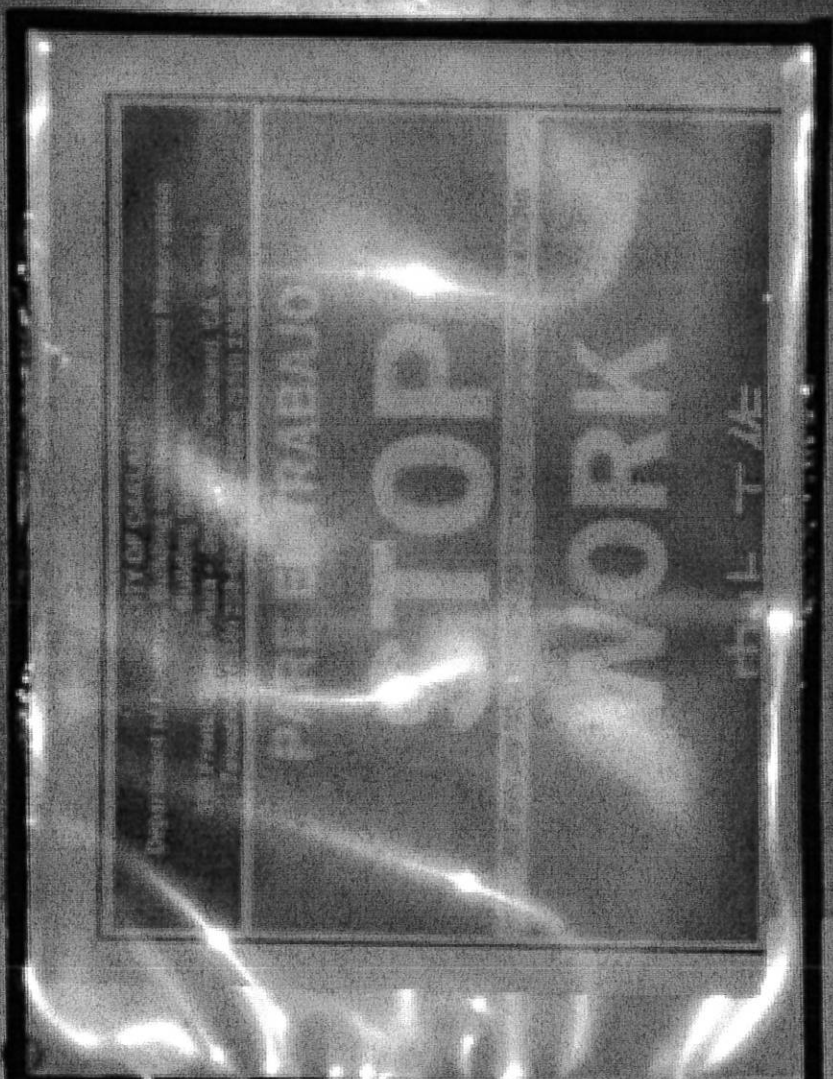
Walls up NO Event  
NO Access or  
Views 3-3-13



Storage space ↑  
Built without  
Approval 12-27-13  
photo taken







stop work order  
Placed by City  
of Oakland NO  
Construction Permits

work done  
After city place  
stop work order  
placed wall completed





**Subject:** Walls

**Date:** Monday, February 25, 2013 6:10:36 PM PT

**From:** Tammy Borichevsky

**To:** Ellenm@BCDC.ca.gov

Hello Ellen,

Just wanted to let you know. It would be better for us if Scott's didn't know who brought this to your attention.

I took these photos at Sunset. The construction guys left around 5 pm today.

This is pretty much the way has been since Jan. They had the tent walls up as they installed the more permanent walls.

If you notice on the photo number 4. The walls are going to retract to 1/2 way at the seam. So there is going to be a wall there all the time.

Tammy

-----  
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Oakland CA 94607

510-893-7833 ext 12

[www.calkayak.com](http://www.calkayak.com)

~~CONFIDENTIAL~~





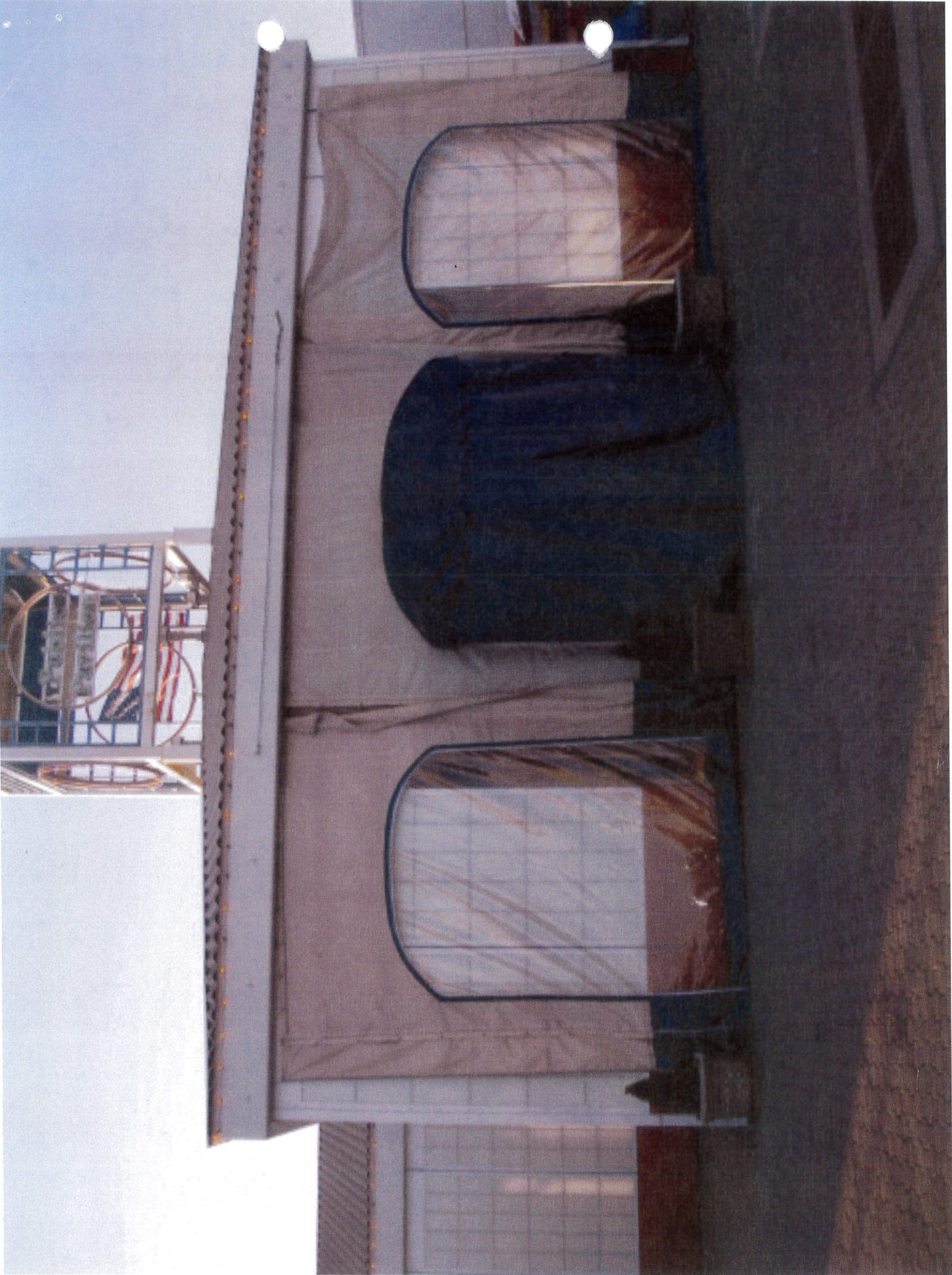














**Subject:** walls Up and construction taking place

**Date:** Wednesday, April 17, 2013 4:12:51 PM Pacific Daylight Time

**From:** Tammy Borichevsky

**To:** 'Julie Braun'

**CC:** 'Adrienne Klein', 'Ellen Miramontes', 'Margie Turrel'

Hello,

This photo was taken just 2 minutes ago. The walls are up and construction is taking place in the Pavilion. According to the calendar for events provided to the Port Scott's does not have it reserved for any event today or tonight. As you can see the public has no access to the area. It is completely closed off.

As I am documented all the times the walls have been up since the beginning of this year. Scott's has reached and exceeded the amount of days they can use the Pavilion according to their permit. Whether they are have been illegally building, installing panels and planters or whether they using the public area for a private commercial event it makes no difference the public still doesn't have access when the walls are up and when construction trucks are parked in the area.

Please advise when the enforcement of the permit might be taking place

Tammy

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[www.calkayak.com](http://www.calkayak.com)





4-17-2013 by Tqmmny



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